

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

AN INVESTIGATION OF RICHARD WILLIAMS,)
D/B/A B.T.U. PIPELINE, INC. AND) CASE NO. 92-220
M5-A1, INC.)

O R D E R

On April 15, 1992, Commission Staff received a letter from Richard Williams, which is attached hereto and incorporated herein as Appendix A, representing B.T.U. Pipeline, Inc. ("B.T.U. Pipeline") and M5-A1, Inc. ("M5-A1"), indicating that M5-A1 as a wholly-owned subsidiary of B.T.U. Pipeline had purchased a natural gas pipeline in Magoffin County, Kentucky, called the R.C. Energy pipeline. Prior to this letter, on March 23, 1992 Mr. Williams provided Staff with a copy of a document which he represented to be the Assignment and Bill of Sale for the R.C. Energy pipeline, which is attached hereto and incorporated herein as Appendix B.

According to Mr. Williams, the pipeline is located along Highway 114, beginning at the Salyersville Health Care Center and going eastward to Route 460 and the Rockhouse community. Mr. Williams states that he will manage the operation of the pipeline, making it part of a gathering pipeline system to move gas from B.T.U. Pipeline/M5-A1 wells in the Rockhouse community area to sales markets: Ashland Pipeline Company, Kentucky West Virginia Gas Company, and customers currently connected to the pipeline.

In order to operate the pipeline in this manner, Mr. Williams intends to sever the pipeline's existing interconnection with Salyersville Gas's distribution system at or near the Salyersville Health Care Center.

With his April 15, 1992 letter, Mr. Williams included a proposed tariff, which is attached hereto and incorporated herein as Appendix C, with rates and rules for providing gas to the customers currently connected to the pipeline. According to the proposed tariff, Mr. Williams intends to operate the pipeline as part of a farm tap system providing gas service to the existing customers pursuant to KRS 278.485. However, the proposed tariff includes no effective date.

According to Commission records, the pipeline which Mr. Williams refers to as "R.C. Energy" was constructed in 1984 as an extension of the distribution system constructed in the name of Salyersville Gas during the period 1982-83. At that time, Staff was advised that the purpose of the extension was to tie in ten local gas wells to the distribution system for additional gas supply and to pick up new commercial customers. Since 1984 several commercial gas customers have been connected to this pipeline, representing a significant 12-month load for Salyersville Gas. Since initially receiving gas service, all customers connected to this pipeline have been billed and serviced by Salyersville Gas.

Staff estimates that at least 50 percent of Salyersville Gas's annual revenues have been generated by gas sales to commercial customers connected to this pipeline. The apparent loss of

this load would have a severe negative impact on the future financial viability of Salyersville Gas and may threaten its ability to maintain service to its remaining customers. In addition, gathering systems provide gas to farm tap customers pursuant to KRS 278.485, which provides that the gas pipeline company is not responsible for maintaining any fixed or specified gas pressure, and service to those customers can be abandoned any time. These provisions do not apply to service provided by a local distribution company such as Salyersville Gas; thus, the quality and reliability of service will decline for these customers if service is provided pursuant to KRS 278.485.

Salyersville Gas filed a voluntary Chapter 11 case under the United States Bankruptcy Code on October 23, 1990. This Commission intervened and has been granted relief from the automatic stay provision to perform its regulatory responsibilities.

The Commission, having been advised of the intended action by Richard Williams in the name of B.T.U. Pipeline and M5-A1, on its own motion, opens this case for the purpose of conducting an investigation to determine the jurisdictional status of the pipeline described herein; to investigate certain rate and other issues related to the proposed tariff filed by B.T.U. Pipeline; and to determine the impact on Salyersville Gas and certain commercial customers of severing the pipeline from the Salyersville Gas system.

IT IS THEREFORE ORDERED that:

1. B.T.U. Pipeline and M5-A1 shall not sever the R.C. Energy pipeline from its connection to the Salyersville Gas

distribution system until the Commission has issued an order in this proceeding allowing the line to be severed.

2. B.T.U. Pipeline and M5-A1 shall not provide service to any customers connected to the R.C. Energy pipeline until rates for such service have been approved by and are on file with the Commission.

3. Within 20 days of the date of this Order, B.T.U. Pipeline shall file with the Commission the name of each customer currently connected to the R.C. Energy pipeline and information which supports B.T.U. Pipeline's representation that its operation of the pipeline will be a gas gathering function.

4. Salyersville Gas is hereby made a party to this proceeding. Within 20 days of the date of this Order, Morris Kennedy, Trustee in Bankruptcy, shall file with the Commission his analysis of what the impact would be on Salyersville Gas's future financial viability if B.T.U. Pipeline's intended actions occur; and the impact, if any, B.T.U. Pipeline's actions would have on Salyersville Gas's bankruptcy case.

5. Eli Warach, attorney-at-law and a principal in B.T.U. Pipeline and M5-A1, is hereby made a party to this proceeding.

6. Messrs. Williams and Warach shall appear at a formal hearing to be held on June 19, 1992, at 10 a.m., Eastern Daylight Time, in Hearing Room 1 of the Commission's offices at 730 Schenkel Lane, Frankfort, Kentucky, to present evidence relating to their ownership and intended operation of the R.C. Energy pipeline; and the reasonableness and adequacy of the provision of

gas service to customers connected to the pipeline as described in the proposed tariff.

7. Mr. Kennedy shall also appear at the hearing to be available to discuss B.T.U. Pipeline's intended actions and their impact on Salyersville Gas's future operations.

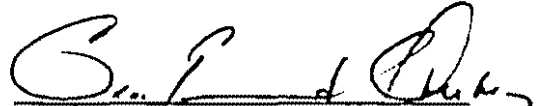
8. B.T.U. Pipeline shall mail notice of the institution of this proceeding to each customer directly connected to the R.C. Energy pipeline. The notice shall state:

The Public Service Commission has initiated an investigation, Case No. 92-220, into the operation of the "R.C. Energy" pipeline by B.T.U. Pipeline, Inc. This pipeline is located along Highway 114, beginning at the Salyersville Health Care Center and going eastward to Route 460 and the Rockhouse Community; and has heretofore been operated as part of the Salyersville Gas Company. Any customer directly connected to this gas pipeline may by motion to the Public Service Commission intervene in this investigation. Such motion shall be submitted to the Public Service Commission, 730 Schenkel Lane, P. O. Box 615, Frankfort, Kentucky 40602; shall reference Case No. 92-220; and shall set forth the grounds for the request and the status and interest of the party. Any questions regarding the investigation should be directed to Ralph Dennis, 502/564-5013.

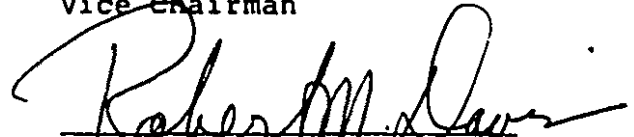
B.T.U. Pipeline shall send a copy of the notice to the Commission no later than 5 days from the date it is mailed to the customer.

Done at Frankfort, Kentucky, this 29th day of May, 1992.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director , Acting

APPENDIX A

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 92-220 DATED 5/29/92

B.T.U. Pipeline, Inc.

P.O. BOX 242
SALYERSVILLE, KENTUCKY 41465

PHONE 606-349-1096
606-349-1097

FAX 606/349-1510

April 9, 1992

TO: PUBLIC SERVICE COMMISSION
ATTN: MARK HOSTETTER
730 SCHENKLE LANE
P.O. BOX 615
FRANKFORT, KY 40602

RECEIVED
RECEIVED APR 27 1992

APR 15 1992

P.S.C.
RESEARCH DIVISION

DIVISION OF UTILITY
ENGINEERING & SERVICES

RE: PURCHASE OF THE R.C. ENERGY LINE

Dear Mr. Hostetter;

This is to inform the Public Service Commission, that the Corporation of M5-A1, (which is a wholly owned subsidiary of the B.T.U. Pipeline, Inc.), has recently purchased the R.C. Energy Pipeline (see Exhibit A), which at one time was supposedly part of the Salyersville Gas Co. System, this line consists of a 4" pipeline along Highway 114, beginning at the Salyersville Health Care Center and running eastward to Route 460 (Mt. Parkway), to the Rockhouse Community.

Our intentions are to make this part of a gathering system, as we have wells in the Rockhouse Community and need to get the gas from these wells to our other sales markets, which consist of contracts with Ashland Pipeline Co., and Kentucky-West Virginia. B.T.U. Pipeline, Inc., is also at this time, pleased to inform the Public Service Commission, that we are ready, willing and able to supply the gas to those customers along this line with adequate and reliable service.

We intend to sever this line at the property of Flossie May and lay a new line running across her property and into the line at Pat Arnett's (formerly known as the Petro Line). "See attached Map". We will notify you of the date in ample time for you to have a representative available should you desire, at the severing of this line. At the time the line is severed, there will not be or should not be any disturbance in gas service to customers

(continued)

along this line.

Also enclosed is a application of the Rates, Rules and Regulations for furnishing Natural Gas, to the area known as the Outskirts of Salyersville and Magoffin County. As we are applying for a status as a farm tap system, as described under KRS 278.485. We will be selling gas to these customers along this line under the Public Service Commission Rules of the Farm Tap Codes.

The R.C. Energy Line, now owned by M5-A1, Inc. and managed by Richard Williams, has approximately 25 residential customers and 30 commercial customers. This line is no longer connected with the Salyersville Gas Company or in any way affiliated with the Salyersville Gas Company as of January 15, 1992.

If you should need any additional information, please feel free to contact me at 606-349-1096 or 606-349-1097.

Sincerely,



RICHARD WILLIAMS

cc/ba
enclosures

APPENDIX B

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 92-220 DATED 5/29/92

ASSIGNMENT AND BILL OF SALE

THIS ASSIGNMENT made and entered into this the 15th day of January, 1992, by and between, R. C. Energy, Inc., P.O. Box 178, Buffalo Lake, Minnesota 55314, hereinafter, "Assignor/Seller" and M5-A1, Co., Inc., a New Jersey Corporation, P.O. Box 242, Salyersville, Kentucky 41465 hereinafter, "Assignee/Buyer".

WITNESSETH: That for and in consideration of the sum of \$15,000.00, cash in hand paid, the receipt of which is hereby acknowledged, Assignor does hereby assign, set over and deliver unto Assignee, all of its right, title and interest in and to the Henry J. Cain Heirs leases (Tract No. 5), which said leases are recorded in Lease Book 75, Pages 346, 348, 350 and 352 of the Magoffin County Court Clerk's Office Records. The undersigned is the present owner thereof.

TO HAVE AND TO HOLD unto Assignee his successors and assigns, in accordance with the terms and provisions of said leases.

For the consideration set forth above, the Seller transfers and conveys all of its right, title and interest in and to the gas pipeline owned by it, constructed by Estil Branham in September of 1985 and running from the "City Gate" along Kentucky 114. For reference, see the Contract between R. C. Energy, Inc. and Salyersville Gas Company, Inc., dated November 19, 1984, recorded in Miscellaneous Book 19. Seller also transfers and conveys its entitlement to any proceeds, revenues, and accounts receivable arising from its ownership of said pipeline and the utilization thereof by all other parties.

TO HAVE AND TO HOLD to Buyer, its successors and assigns, with covenants of General Warranty.

R. C. Energy, Inc.

BY: Virgil Mellies
Virgil Mellies, President
Assignor/Seller

ARIZONA
STATE OF MINNESOTA
SCT.
COUNTY OF ~~RSNVILLE~~
MARICOPA

The foregoing instrument was acknowledged before me by
Virgil Mellies, President of R. C. Energy, Inc. on behalf of
the corporation on this the 15th day of January,
1992.

Notary Public: Elroy Mueller
My Commission Expires: 3-30-92

This instrument was prepared by:

Johnson & Phillips
Attorneys at Law
P.O. Box 668
Paintsville, Kentucky 41240

BY: Dale Phillips
Dale Phillips

STATE OF KENTUCKY } SCT.
MAGOFFIN COUNTY }

I, Haden B. Arnett, Clerk of the County Court for the County and State aforesaid, certify
that the foregoing Assign 20th day of March 1992
is duly recorded and this certificate has been
duly recorded.

Given under my hand 20th day of March 1992
Haden B. Arnett Clerk

By Shelise Arnett

Lease Bk-85
Page-196

APPENDIX C

APPENDIX TO AN ORDER OF THE KENTUCKY PUBLIC SERVICE
COMMISSION IN CASE NO. 92-220 DATED 5/29/92

P.S.C. KY NO. _____
CANCELS P.S.C. Y NO. _____

APPLICATION

OF

B.T.U. PIPELINE, INC.

RATES, RULES AND REGULATIONS FOR FURNISHING
NATURAL GAS

at

OUTSKIRTS OF SALYERSVILLE AND MAGOFFIN COUNTY, KY

Filed with PUBLIC SERVICE COMMISSION OF
KENTUCKY

ISSUED: April 7, 1992

EFFECTIVE: _____, 1992

ISSUED BY: B.T.U. PIPELINE, INC.

BY: PAMELA WILLIAMS

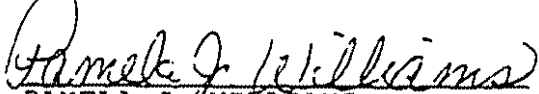
PRESIDENT

to federal jurisdiction by order of the federal energy regulatory commission or a court of competent jurisdiction. The provisions of this section shall apply only to producing gas wells and to gas pipelines commonly known as gathering lines.

(6) Nothing in this section shall be construed to restrict the right of any gas pipeline company to abandon any gas well or any gathering pipeline, or any part thereof, and to remove any such abandoned pipeline or lines. If service to any customer is terminated because of lack of gas for a period of six (6) months in a pipeline or line which served him, the company shall remove a portion of the main line so as to render it inoperable.

(7) Subject to rules and regulations of the Public Service Commission, any service may be disconnected and discontinued by the company for failure of the customer to pay any bill as and when due and payable.

SIGNED:



PAMELA J. WILLIAMS
President
B.T.U. Pipeline, Inc.

Customer:

Name _____
(Please Print)

Signature

Address _____

Phone : Work _____

Home _____

Form for filing Rate Schedules

FOR Outskirts of Salyersville
and Magoffin Co., KY
P.S.C. Ky. No. _____

Sheet No. _____

B.T.U. PIPELINE, INC.

Cancelling P.S.C. Ky. No. _____

Name of Issuing Corporation

Sheet No. _____

RULES AND REGULATIONS

CLASSIFICATION OF SERVICE

RATE
PER UNIT

B.T.U. PIPELINE, INC., is applying for status as a farm tap system as described under KRS 278.485. B.T.U. Pipeline, Inc., is currently gathering gas from producers in Salyersville and Magoffin County for resale to markets available through Columbia Gas Transmission Co., Kentucky-West Virginia and Ashland. B.T.U. Pipeline, Inc. requests approval on the following rate schedule to sell gas to the homeowners along the pipeline:

All residential customers will be charged this rate:

- \$7.00/MCF first unit
- \$6.00/MCF each additional unit
- \$7.00 minimum monthly charge
- \$150.00 tap fee
- \$100.00 cash deposit
- \$25.00 reconnect charge

All Commercial customers will be charged this rate:

- \$5.00/MCF flat rate
- \$5.00 minimum monthly charge
- \$150.00 tap fee
- \$100.00 cash deposit
- \$25.00 reconnect fee

DATE OF ISSUE April 7 1992
Month Day Year

DATE EFFECTIVE _____
Month Day Year

ISSUED BY Pamela Williams
Name of Officer

President Salyersville, KY 4146
Title Address

FOR Outskirts of Salyersville
and Magoffin Co., KY
P.S.C. Ky. No. _____

_____ Sheet No. _____

B.T.U. PIPELINE, INC.

Cancelling P.S.C. Ky. No. _____

_____ Sheet No. _____

RULES AND REGULATIONS

RULES AND REGULATIONS

The farm tap has been constructed according to all applicable rules and regulations of the Public Service Commission; 807 KAR 5:006, 5:022 and 5:026.

The design and pressure tests have been submitted to the PSC. All fusing was done by certified fusers. The pipe was Plexico SDR 11.

The system will be operated according to the requirements of the aforementioned regulations. B.T.U. Pipeline, Inc. has contracted with Richard Williams, of R & D Drilling Co., Inc., to operate the system. The office will be located at 301 Church Street, Salyersville, KY 41465. All customer complaints and questions, billings and collections, meter and line maintenance records and all additional manuals and procedures required by the PSC will be handled by this office.

DATE OF ISSUE APRIL 7 1992
Month Day Year

DATE EFFECTIVE _____
Month Day Year

ISSUED BY Pamela Williams
Name of Officer

President Salyersville, KY 4146
Title Address

RESIDENTIAL GAS SERVICE CONTRACT

B.T.U. Pipeline, Inc. agrees to provide natural gas to the undersigned customer according to the following terms as stipulated by the Kentucky Public Service Commission Regulation 278:485:

(1) The gas service shall be furnished at rates and minimum monthly charges determined by the public service commission. These are as follows:

\$7.00/MCF first Unit
\$6.00/MCF each additional unit
\$7.00 minimum monthly charge
\$150.00 tap fee
\$100.00 cash deposit. This deposit will earn interest at the rate of 6% per year and is refundable at the end of one year if the account is current.
\$25.00 reconnect charge

(2) The applicant for such gas service shall construct or cause to be constructed, and shall maintain and keep in good repair, the service lines, and shall provide and install or cause to be installed, and keep in good repair, the necessary automatic gas regulators, and shall pay the entire cost thereof. The company, at its own expense, shall provide, install and maintain the necessary gas meters.

(3) The construction of each service line, the installation, type and number of automatic gas regulators and gas meter or meters and the connection thereof with the gas producing well or pipeline shall be under the supervision of the Public Service Commission or an agent thereof; and, shall conform to such standards of safety, location and convenience as may be prescribed by said commission.

(4) Neither the gas producer nor the gas pipeline company shall be responsible for maintaining any fixed or specified gas pressure. Neither the gas producer nor the gas pipeline company shall be liable for any accident or accidental injuries or damages which may result from any defect or failure of any automatic gas regulator or for any leakage or other defect or failure of any service line installed or constructed by the applicant.

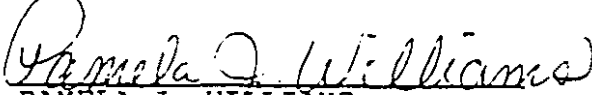
(5) Nothing in this section shall be construed as requiring any gas pipeline company to serve any such owner of property or

to federal jurisdiction by order of the federal energy regulatory commission or a court of competent jurisdiction. The provisions of this section shall apply only to producing gas wells and to gas pipelines commonly known as gathering lines.

(6) Nothing in this section shall be construed to restrict the right of any gas pipeline company to abandon any gas well or any gathering pipeline, or any part thereof, and to remove any such abandoned pipeline or lines. If service to any customer is terminated because of lack of gas for a period of six (6) months in a pipeline or line which served him, the company shall remove a portion of the main line so as to render it inoperable.

(7) Subject to rules and regulations of the Public Service Commission, any service may be disconnected and discontinued by the company for failure of the customer to pay any bill as and when due and payable.

SIGNED:



PAMELA J. WILLIAMS
President
B.T.U. Pipeline, Inc.

Customer:

Name _____
(Please Print)

Signature

Address _____

Phone : Work _____
Home _____

COMMERCIAL GAS SERVICE CONTRACT

B.T.U. Pipeline, Inc. agrees to provide natural gas to the undersigned customer according to the following terms as stipulated by the Kentucky Public Service Commission Regulation 278:485:

(1) The gas service shall be furnished at rates and minimum monthly charges determined by the public service commission. These are as follows:

\$5.00/MCF flat rate
\$5.00 minimum monthly charge
\$150.00 tap fee
\$100.00 Cash deposit. This deposit will earn interest at the rate of 6% per year and is refundable at the end of one year if the account is current.
\$25.00 reconnect charge

(2) The applicant for such gas service shall construct or cause to be constructed, and shall maintain and keep in good repair, the service lines, and shall provide and install or cause to be installed, and keep in good repair, the necessary automatic gas regulators, and shall pay the entire cost thereof. The company, at its own expense, shall provide, install and maintain the necessary gas meters.

(3) The construction of each service line, the installation, type and number of automatic gas regulators and gas meter or meters and the connection thereof with the gas producing well or pipeline shall be under the supervision of the Public Service Commission or an agent thereof; and, shall conform to such standards of safety, location and convenience as may be prescribed by said commission.

(4) Neither the gas producer nor the gas pipeline company shall be responsible for maintaining any fixed or specified gas pressure. Neither the gas producer nor the gas pipeline company shall be liable for any accident or accidental injuries or damages which may result from any defect or failure of any automatic gas regulator or for any leakage or other defect or failure of any service line installed or constructed by the applicant.

(5) Nothing in this section shall be construed as requiring any gas pipeline company to serve any such owner of property or applicant from any line or lines that have been held to be subject